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by a deed of the tenant in tail. The statute, so far as it related to remainders and reversions existing at the time of its passage, was attacked as permitting a taking of property without due process of law. *Held*, that it is unconstitutional. *Green v. Edwards*, 77 Atl. 188 (R. I.). See NOTES, p. 144.

EVIDENCE — SIMILAR FACTS AND OCCURRENCES — CRIMES RESULTING FROM SIMILAR MOTIVE AS PROOF OF CRIME AT ISSUE. — The defendant was indicted for statutory rape. *Held*, that evidence of prior intercourse between the parties is admissible. *People v. Boero*, 110 Pac. 525 (Cal., Ct. App.).

The defendant was indicted for incest. *Held*, that evidence of prior intercourse between the parties is inadmissible. *Pridemore v. State*, 129 S. W. 1112 (Tex., Ct. Cr. App.). See NOTES, p. 148.

GENERAL AVERAGE — NATURE, CAUSE, AND MANNER OF SACRIFICE — EFFECT OF INHERENT VICE OF CARGO UPON RIGHT TO CONTRIBUTION. — A cargo of garbage tankage took fire by spontaneous combustion, and the rest of this cargo was destroyed in putting out the fire, to save the common venture. Neither the cargo-owner nor the ship-owner knew of its dangerous character. The plaintiff insurance company had to indemnify the cargo-owner, and libelled the vessel for a general average contribution. *Held*, that the plaintiff is entitled to this contribution. *The Wm. J. Quillan*, 180 Fed. 681 (C. C. A., Second Circ.).

This reverses a former decision in the same case. See 23 HARV. L. REV. 483; 22 *id.* 452; and for a discussion of the principles involved, 21 *id.* 369.

GIFTS — CAUSA MORTIS — EFFECT OF SUBSEQUENT WILL. — Several days before his death a testator made to the plaintiff a *donatio causa mortis* of three deposit notes amounting to £2,000, and the same day made a will bequeathing her £2,000. The plaintiff sued for the sum secured by the deposit notes. The defendant, the executor of the will, contended that the legacy satisfied the *donatio*. *Held*, that the plaintiff can recover. *Hudson v. Spencer*, 54 Sol. J. 601 (Eng., Ch. D., June 8, 1910).

One early case holds that a subsequent will may satisfy a debt thus created. *Jones v. Selby*, Prec. Ch. 300. But there the *donatio*, being made three years before the testator's death, was hardly *causa mortis*, and the decision scarcely warrants the contention that a bequest of a similar amount revokes a preceding death-bed gift. And a later will leaving the same *res* to a different person does not revoke the gift. *Nicholas v. Adams*, 2 Whart. (Pa.) 17. *Contra*, *Jayne v. Murphy*, 31 Ill. App. 28. This is justified on the ground that title to the gift becomes absolute at the moment of death, so that the will has no effect on it. In England the death of the donor is a condition precedent to the vesting of title in the donee. *Tate v. Hilbert*, 2 Ves. Jr. 111. But in most American jurisdictions a defeasible title vests at once. *Emery v. Clough*, 63 N. H. 552. It is universally agreed, however, that the gift is revocable by the donor during life. *Parker v. Marston*, 27 Me. 196. It is therefore argued that the intent to revoke is shown by the similarity of the bequest to the gift. *Jayne v. Murphy*, *supra*. But such a decision is in direct conflict with the kindred rule governing bequests contained in both a will and codicil. *Roch v. Callen*, 6 Hare 531.

HUSBAND AND WIFE — WIFE'S SEPARATE ESTATE — ESTATE BY ENTIRETY: WHETHER JUDGMENT DEBT OF HUSBAND BECOMES LIEN ON THE LAND. — A husband and wife held an estate by the entirety in mortgaged land. The property was sold under a decree of foreclosure, and judgment creditors of the husband claimed a lien on the surplus funds. The husband and wife petitioned to have the surplus paid to them. *Held*, that it shall remain in court to await severance of the estate by death, then to go to the wife or the husband's cred-

itors accordingly as the husband or wife dies first. *Servis v. Dorn*, 76 Atl. (N. J.) 246.

At common law the husband had full rights in an estate by the entirety during the joint lives of himself and wife, except that he could not defeat the wife's right of survivorship. *Washburn v. Burns*, 34 N. J. L. 18. The married woman's property acts gave the wife the right to enjoy her estate during coverture. *Hiles v. Fisher*, 144 N. Y. 306. This did not abolish estates by the entirety. It did, however, limit the husband's rights to possession during their joint lives. Thereafter the husband and wife had each a right to the profits of an undivided half, the fee passing to the survivor. *Buttler v. Rosenblath*, 42 N. J. Eq. 651. It seems that the decree in the principal case, while it recognizes this separate right in the wife, should have more fully protected it. Judgment creditors of the husband could acquire no hold on her interest. She was entitled to one-half the interest of the surplus. There should also be provision for partition in case the estate is severed otherwise than by death, *e. g.*, by divorce. She would then become a tenant in common with her husband. *Stelz v. Shreck*, 128 N. Y. 263. *Cf. Mardt v. Scharmach*, 65 N. Y. Misc. 124.

INJUNCTIONS — ACTS RESTRAINED — INFRINGEMENT OF PATENT BY PUBLIC OFFICERS. — The complainant filed a bill to restrain county commissioners from using, in a courthouse, a ventilating device which infringed on his patent. *Held*, that the injunction should not be granted. *McCreery Engineering Co. v. Massachusetts Fan Co.*, 180 Fed. 115 (Circ. Ct., D. Mass.).

In the United States the sovereign has no right to use patented inventions without compensation to the patentee. *James v. Campbell*, 104 U. S. 356. Yet the sovereign cannot be sued without its consent. Hence it has been held by the Supreme Court that if patented articles have come into the possession of the government, agents using them for the government cannot be enjoined from so doing, on the ground that such an injunction would in substance be directed against the sovereign. *Belknap v. Schild*, 161 U. S. 10. If it be conceded that a courthouse is an agency of the state the principal case would seem correct, even though it permits individuals to continue doing admittedly wrongful acts. The patentee is not without remedy, for he can recover from the commissioners the damages he has sustained. Even if agents are expressly authorized by government officials to commit illegal acts they are personally liable for the consequences in actions at law. *Bates v. Clark*, 95 U. S. 204.

INSURANCE — CONSTRUCTION AND OPERATION OF CONDITIONS — INSURANCE BROKER AS AGENT OF INSURED TO PAY PREMIUMS. — An insurance policy containing a stipulation that it should become null and void upon the dishonor of any note given in payment, was issued by the defendant company's agent to the plaintiff. A note for the first premium, payable to the agent, was received by him and held until maturity. The defendant company issued a receipt, acknowledging payment, forwarded it to the agent and charged his account with the amount. Subsequently the note was dishonored. *Held*, that the policy was not rendered invalid. *Perea v. State Life Insurance Co.*, 110 Pac. 559 (N. M.).

Whether such a policy is forfeited depends on a nice determination as to where the loss from the non-payment of the note primarily falls. If the note has been endorsed to the company, its dishonor would render the policy void. *Fidelity Mutual Life Insurance Co. v. Bussell*, 75 Ark. 25. If it was retained by the agent and he was debited on the books of the company with the amount, although with the understanding that the company would save him harmless, then the validity of the policy cannot be impaired. *Southern Mutual Life Insurance Co. v. Best*, 8 Ky. L. Rep. 535. Granting that these two cases, so nearly similar, correctly state the law, they mark the exact line of distinction;